

AMENDED IN SENATE JANUARY 4, 2012

**SENATE BILL**

**No. 210**

**Introduced by Senator Hancock**  
**(Principal coauthor: Senator Liu)**

February 8, 2011

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An act to add Chapter 9.9 (commencing with Section 6280) to Title 7 of Part 3 amend Section 3417 of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

SB 210, as amended, Hancock. Prisoners: ~~alternative incarceration.~~  
~~community treatment program.~~

*Existing law requires the Department of Corrections and Rehabilitation to establish and implement a community treatment program, under which a women sentenced to state prison who has one or more children under 6 years of age, whose child is born prior to incarceration, or who is pregnant, shall be eligible for release with her children to a public or private facility in the community suitable to their needs. Existing law requires the department to deny placement in the community treatment program, except as provided, to certain women including, but not limited to, those who have been convicted of the unlawful sale or possession for sale, manufacture, or transportation of a controlled substance, as defined, if large scale and for profit, as defined by the department.*

*This bill would exclude women from denial of placement in the program who are convicted of planting, cultivating, harvesting, drying, or processing any marijuana or any part thereof, and persons who are convicted of possessing for sale any marijuana.*

~~Existing law authorizes the Secretary of the Department of Corrections and Rehabilitation to enter into contracts with various entities for the~~

housing and other care of inmates who are subject to the department's jurisdiction, but not incarcerated in a state prison. Existing law authorizes the department to construct, establish, and operate reentry program facilities with programs to assist inmates and parole violators to reintegrate into society.

~~This bill would state findings and declarations of the Legislature relative to alternative incarceration for nonviolent inmates. The bill would authorize the Secretary of the Department of Corrections and Rehabilitation to enter into contracts with Alternative Incarceration Facilities, as defined, for housing certain nonviolent inmates who meet certain criteria. The bill would authorize the secretary to adopt regulations to implement those purposes, set forth criteria for inmates to meet in order to be transferred to Alternative Incarceration Facilities, and establish a compensation scheme for owners of those facilities. The bill would require a retired, correctional officer with certain experience to always be present at each facility for purposes of providing certain technical assistance.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 3417 of the Penal Code is amended to  
2     read:

3     3417. (a) Subject to reasonable rules and regulations adopted  
4     pursuant to Section 3414, the Department of Corrections *and*  
5     *Rehabilitation* shall admit to the program any applicant whose  
6     child was born prior to the receipt of the inmate by the department,  
7     whose child was born after the receipt of the inmate by the  
8     department, or who is pregnant, if all of the following requirements  
9     are met:

10    (1) The applicant has a probable release or parole date with a  
11    maximum time to be served of six years, calculated after deduction  
12    of any possible good time credit.

13    (2) The applicant was the primary caretaker of the infant prior  
14    to incarceration. "Primary caretaker" as used in this chapter means  
15    a parent who has consistently assumed responsibility for the  
16    housing, health, and safety of the child prior to incarceration. A  
17    parent who, in the best interests of the child, has arranged for  
18    temporary care for the child in the home of a relative or other

1 responsible adult shall not for that reason be excluded from the  
2 category, “primary caretaker.”

3 (3) The applicant had not been found to be an unfit parent in  
4 any court proceeding. An inmate applicant whose child has been  
5 declared a dependent of the juvenile court pursuant to Section 300  
6 of the Welfare and Institutions Code shall be admitted to the  
7 program only after the court has found that participation in the  
8 program is in the child’s best interest and that it meets the needs  
9 of the parent and child pursuant to paragraph (3) of subdivision  
10 (e) of Section 361.5 of the Welfare and Institutions Code. The fact  
11 that an inmate applicant’s child has been found to come within  
12 Section 300 of the Welfare and Institutions Code shall not, in and  
13 of itself, be grounds for denying the applicant the opportunity to  
14 participate in the program.

15 (b) The Department of Corrections *and Rehabilitation* shall  
16 deny placement in the community treatment program if it  
17 determines that an inmate would pose an unreasonable risk to the  
18 public, or if any one of the following factors exist, except in  
19 unusual circumstances or if mitigating circumstances exist,  
20 including, but not limited to, the remoteness in time of the  
21 commission of the offense:

22 (1) The inmate has been convicted of any of the following:

23 (A) A sex offense listed in Section 667.6.

24 (B) A sex offense requiring registration pursuant to Section 290.

25 (C) A violent offense listed in subdivision (c) of Section 667.5.

26 (D) Arson as defined in Sections 450 to 455, inclusive.

27 (E) The unlawful sale or possession for sale, manufacture, or  
28 transportation of controlled substances as defined in Chapter 6  
29 (commencing with Section 11350) of Division 10, *except Sections*  
30 *11358 and 11359*, of the Health and Safety Code, if large scale  
31 for profit as defined by the department.

32 (2) There is probability the inmate may abscond from the  
33 program as evidenced by any of the following:

34 (A) A conviction of escape, of aiding another person to escape,  
35 or of an attempt to escape from a jail or prison.

36 (B) The presence of an active detainer from a law enforcement  
37 agency, unless the detainer is based solely upon warrants issued  
38 for failure to appear on misdemeanor Vehicle Code violations.

39 (3) It is probable the inmate’s conduct in a community facility  
40 will be adverse to herself or other participants in the program, as

1 determined by the ~~Director of Corrections~~ *Secretary of the*  
2 *Department of Corrections and Rehabilitation* or as evidenced by  
3 any of the following:

4 (A) The inmate's removal from a community program which  
5 resulted from violation of state laws, rules, or regulations governing  
6 ~~Department of Corrections~~ *Corrections and Rehabilitation's*  
7 inmates.

8 (B) A finding of the inmate's guilt of a serious rule violation,  
9 as defined by the ~~Director of Corrections~~ *Secretary of the*  
10 *Department of Corrections and Rehabilitation*, which resulted in  
11 a credit loss on one occasion of 91 or more days or in a credit loss  
12 on more than one occasion of 31 days or more and the credit has  
13 not been restored.

14 (C) A current written opinion of a staff physician or psychiatrist  
15 that the inmate's medical or psychiatric condition is likely to cause  
16 an adverse effect upon the inmate or upon other persons if the  
17 inmate is placed in the program.

18 (c) Nothing in this section shall be interpreted to limit the  
19 discretion of the ~~Director of Corrections~~ *Secretary of the*  
20 *Department of Corrections and Rehabilitation* to deny or approve  
21 placement when subdivision (b) does not apply.

22 (d) The Department of Corrections *and Rehabilitation* shall  
23 determine if the applicant meets the requirements of this section  
24 within 30 days of the parent's application to the program. The  
25 department shall establish an appeal procedure for the applicant  
26 to appeal an adverse decision by the department.

27 ~~SECTION 1. This act shall be known, and may be cited, as the~~  
28 ~~Responsible Alternative Incarceration Facility Act.~~

29 ~~SEC. 2. The Legislature finds and declares all of the following:~~

30 ~~(a) The cost of incarcerating nonviolent prisoners who are~~  
31 ~~serving time in a state prison is higher than would be attainable~~  
32 ~~through alternative means.~~

33 ~~(b) Public safety is the primary purpose of incarceration and~~  
34 ~~public safety goals may continue to be achieved through less costly~~  
35 ~~alternatives for certain inmates convicted of nonviolent crimes.~~

36 ~~(c) It is the intent of the Legislature by enacting this measure~~  
37 ~~to create a program that encourages experienced correctional~~  
38 ~~personnel to organize and staff small, secured, managed residential~~  
39 ~~facilities to house nonviolent inmates meeting other appropriate~~  
40 ~~criteria, and that these facilities form a bridge between prison and~~

1 society that will enable inmates to become productive members  
2 of society on a more expeditious and less costly basis.

3 SEC. 3. Chapter 9.9 (commencing with Section 6280) is added  
4 to Title 7 of Part 3 of the Penal Code, to read:

5  
6 CHAPTER 9.9. ALTERNATIVE INCARCERATION FACILITIES  
7

8 6280. (a) The Department of Corrections and Rehabilitation  
9 is authorized to contract with an Alternative Incarceration Facility  
10 for placement of inmates who meet the criteria set forth in Section  
11 6281.

12 (b) The department shall adopt regulations to implement this  
13 chapter. The regulations shall include, but not be limited to, the  
14 following criteria for certifying a facility as an Alternative  
15 Incarceration Facility:

16 (1) No more than 25 residents may be housed at the facility.

17 (2) The facility is owned and operated by a natural person or  
18 community organization knowledgeable in the area of providing  
19 treatment or services for persons who have been incarcerated in a  
20 state prison, and the owner and operator does not own or operate  
21 more than two Alternative Incarceration Facilities.

22 (3) The facility shall not be located within 1,000 feet of any  
23 hospital, school, preschool, prison, jail, or other Alternative  
24 Incarceration Facility.

25 (4) The facility, including its staffing and security standards,  
26 shall be certified by the American Correctional Association as  
27 providing evidence-based programs for case management, drug  
28 treatment, and mental health counseling, or as having access to  
29 community-based case management, drug treatment, and mental  
30 health counseling.

31 6281. (a) Inmates eligible for transfer to an Alternative  
32 Incarceration Facility shall meet all of the following criteria:

33 (1) Be an inmate in a state prison.

34 (2) Have at least one-year incarceration left to serve.

35 (3) Have served at least six months incarceration in a state  
36 prison.

37 (4) Is not currently serving and has not served a prior  
38 indeterminate sentence or a sentence for a violent felony, a serious  
39 felony, or a crime that requires him or her to register as a sex  
40 offender pursuant to the Sex Offender Registration Act, and has

1 scored a low risk on the risk and needs assessment tool used by  
2 the Department of Corrections and Rehabilitation.

3 ~~(5) Have requested to be transferred to an Alternative~~  
4 ~~Incarceration Facility.~~

5 ~~(6) Have completed a risk and needs assessment before entering~~  
6 ~~the facility.~~

7 ~~(b) The Secretary of the Department of Corrections and~~  
8 ~~Rehabilitation may establish additional standards for eligibility~~  
9 ~~for inmates to transfer to an Alternative Incarceration Facility.~~

10 ~~Those standards shall include criteria for individual inmate~~  
11 ~~evaluation and designation to an Alternative Incarceration Facility~~  
12 ~~specifically suitable for that inmate.~~

13 ~~(c) The facility must agree to accept the inmate prior to transfer~~  
14 ~~of the inmate to the facility.~~

15 ~~(d) The operator of the facility may return an inmate to prison~~  
16 ~~at any time.~~

17 ~~(e) An inmate may return to prison or transfer to another~~  
18 ~~Alternative Incarceration Facility if that facility agrees to accept~~  
19 ~~that inmate.~~

20 ~~(f) The inmate shall complete a risk and needs assessment before~~  
21 ~~being released from the facility.~~

22 ~~6282. Each Alternative Incarceration Facility shall have present,~~  
23 ~~at all times, a retired, qualified correctional peace officer with at~~  
24 ~~least five years of experience as a correctional peace officer and~~  
25 ~~at least two years management experience as a parole officer for~~  
26 ~~the purpose of providing technical assistance in the provision of~~  
27 ~~reentry services consistent with the purposes of this chapter.~~

28 ~~6283. (a) The owner of an Alternative Incarceration Facility~~  
29 ~~shall be compensated by the Department of Corrections and~~  
30 ~~Rehabilitation, as follows:~~

31 ~~(1) Monthly payment per resident of an amount equal to one-half~~  
32 ~~the sum determined by dividing the previous fiscal year's budget~~  
33 ~~for the department by the highest number of inmates incarcerated~~  
34 ~~by the department during that year.~~

35 ~~(2) Payment of five hundred dollars (\$500) for each resident~~  
36 ~~who attains his or her General Education Diploma while residing~~  
37 ~~at the facility.~~

38 ~~(3) Payment of one thousand dollars (\$1,000) for each resident~~  
39 ~~who attains his or her Associate of Arts degree while residing at~~  
40 ~~the facility.~~

1     ~~(4) Payment of one thousand dollars (\$1,000) for each resident~~  
2     ~~who completes a vocational education program approved by a~~  
3     ~~local school district and is accepted into a local union while~~  
4     ~~residing at the facility.~~

5     ~~(b) The operator of the facility may charge the resident~~  
6     ~~reasonable fees, based on ability to pay, for room, board, and so~~  
7     ~~much of the costs of administration as are allocable to that resident.~~  
8     ~~The fees may not exceed actual, demonstrable costs to the~~  
9     ~~department. No fees shall be collected from an inmate or parolee~~  
10    ~~after his or her residency in the facility has terminated.~~  
11    ~~Notwithstanding any other provision of law, no inmate or parolee~~  
12    ~~shall be denied placement in a facility authorized by this chapter~~  
13    ~~on the basis of inability to pay fees authorized by this section.~~

14    ~~6284. For purposes of this chapter, the following definitions~~  
15    ~~shall apply:~~

16    ~~(a) A “natural person” means a human being, not a corporation,~~  
17    ~~partnership, limited liability company, corporative business, trust,~~  
18    ~~or similar entity.~~

19    ~~(b) “Alternative Incarceration Facility” means a secure~~  
20    ~~residential facility certified by the Department of Corrections and~~  
21    ~~Rehabilitation to be used for the purpose of housing nonviolent~~  
22    ~~inmates who meet the criteria set forth in Section 6281.~~